



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: SCOTT C. JOHNSON ET AL.

Filed: June 12, 2001

For: SYSTEMS AND METHODS FOR PROVIDING
DIFFERENTIATED SERVICE IN INFORMATION
MANAGEMENT ENVIRONMENTS

Serial No.: 09/879,810

Group Art Unit: UNKNOWN

Examiner: UNKNOWN

Atty Dkt: SURG:147

Pursuant to 37 CFR 1.8, I hereby certify that this paper or fee is being deposited with the United States Postal Service in a first class, postage prepaid envelope on the date indicated below and is addressed to: Assistant Commissioner of Patents, Washington, D.C. 20231.

10-3-01 Diane C. Potts
Date Name

Assistant Commissioner For Patents
Washington, D.C. 20231

**ELECTION UNDER 37 C.F.R. §§3.71 AND STATEMENT UNDER 3.73
AND POWER OF ATTORNEY**

Sir:

The undersigned being Assignee of record of the entire interest in the above-identified application by virtue of an assignment that has been filed in the United States Patent and Trademark Office as set forth below, hereby elects, under 37 C.F.R. §3.71, to prosecute the application to the exclusion of the inventor. A statement under 37 C.F.R. 3.73(b) is also included below.

The Assignee hereby revokes any previous Powers of Attorney and appoints Robert M. O'Keefe, Reg. No. 35,630; Richard D. Egan, Reg. No. 36,788; Brian W. Peterman, Reg. No. 37,908, William W. Enders, Reg. No. 41,735, and Maximilian R. Peterson, Reg. No. 46,469, each an attorney of the firm of O'KEEFE, EGAN & PETERMAN, LLP, as its attorney for so long as they remain with such firm, with full power of substitution and revocation, to prosecute the application, to make alterations and amendments therein, to transact all business in the Patent

and Trademark Office in connection therewith, and to receive any Letters Patent, and for one year after issuance of such Letters Patent to file any request for a certificate of correction that may be deemed appropriate.

Pursuant to 37 C.F.R. §3.73, the undersigned has reviewed the evidentiary documents, specifically the Assignment to *Surgient Networks, Inc.*, referenced below, and certifies that to the best of my knowledge and belief, title remains in the name of the Assignee.

Pursuant to 37 C.F.R. §3.73(b), *Surgient Networks, Inc.*, a corporation, states that it is the assignee of the entire, right, and interest in the patent application identified above by virtue of an assignment from the inventor(s) of the patent application identified above. The assignment has been filed in the United States Patent and Trademark Office as set forth below.

Please direct all communications as follows:

William W. Enders
O'KEEFE, EGAN & PETERMAN, LLP
1101 Capital of Texas Highway South
Building C, Suite 200
Austin, Texas 78746
512/347-1611
FAX 512/347-1615

The undersigned (whose title is supplied below) is empowered to sign this statement on behalf of the assignee.

ASSIGNEE:

SURGIENT NETWORKS, INC.

By: _____

Name: Scott C. Johnson

Title: Chief Technical Officer

Date: 9-5-2001

ASSIGNMENT:

☒ Filed concurrently herewith (copy enclosed)

☐ Previously filed [date](copy enclosed)

☐ Previously recorded

Date: _____

Reel: _____

Frame: _____

ASSIGNMENT

FOR GOOD AND VALUABLE CONSIDERATION, the receipt, sufficiency and adequacy of which are hereby acknowledged, the undersigned, do hereby:

SELL, ASSIGN AND TRANSFER to Surgient Networks, Inc. (the "Assignee"), being incorporated under the laws of the State of Delaware, having a place of business 8303 North Mopac, Suite C-300, Austin, Texas 78759-8374, the entire right, title and interest for the United States and all foreign countries in and to (1) any and all improvements which are disclosed in the application for United States Letters Patent, Serial No. 09/879,810 which has been filed on June 12, 2001 and is entitled "SYSTEMS AND METHODS FOR PROVIDING DIFFERENTIATED SERVICE IN INFORMATION MANAGEMENT ENVIRONMENTS," (2) such application and all divisional, continuing, continuation-in-part, substitute, renewal, reissue and all other applications for patent which have been or shall be filed in the United States and all foreign countries on any of such improvements; and (3) any and all original and reissued patents which have been or shall be issued in the United States and all foreign countries on such improvements; and specifically including the right to file foreign applications under the provisions of any convention or treaty and claim priority based on such applications in the United States;

AUTHORIZE AND REQUEST the issuing authority to issue any and all United States and foreign patents granted on such improvements to the Assignee;

WARRANT AND COVENANT that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been or will be made to others by the undersigned, and that the full right to convey the same as herein expressed is possessed by the undersigned;

COVENANT, when requested and at the expense of the Assignee, to carry out in good faith the intent and purpose of this assignment, the undersigned will execute all divisional, continuing, substitute, renewal, reissue, and all other patent applications on any and all such improvements; execute all rightful oaths, declarations, assignments, powers of attorney and other papers; communicate to the Assignee all facts known to the undersigned relating to such improvements and the history thereof; and generally do everything possible which the Assignee shall consider desirable for vesting title to such improvements in the Assignee, and for securing, maintaining and enforcing proper patent protection for such improvements;

TO BE BINDING on the heirs, assigns, representatives and successors of the undersigned and extend to the successors, assigns and nominees of the Assignee.

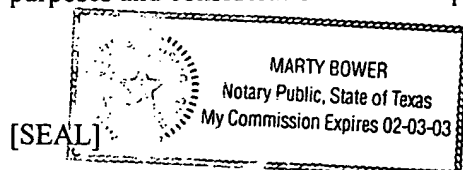
(Signature): Scott C. Johnson
Scott C. Johnson

Date: 9-5-2001

State of Texas)

County of Texas)

BEFORE ME, the undersigned authority, on this 5 day of September, 2001, personally appeared Scott C. Johnson, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same of his own free will for the purposes and consideration therein expressed.



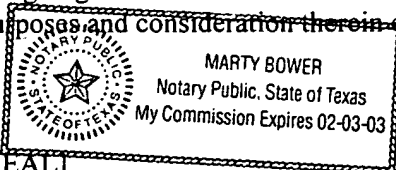
Marty Bower
Notary or Consular Officer

(Signature): Robert B. Fernander
Robert B. Fernander

Date: 9-5-01

State of Texas)
County of Travis)

BEFORE ME, the undersigned authority, on this 5 day of September, 2001, personally appeared Robert B. Fernander, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same of his own free will for the purposes and consideration therein expressed.



[SEAL]

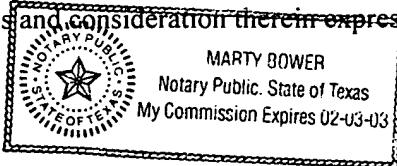
Marty Bower
Notary or Consular Officer

(Signature): Neal D. Hartsell
Neal D. Hartsell

Date: 9/5/01

State of Texas)
County of Travis)

BEFORE ME, the undersigned authority, on this 5 day of September, 2001, personally appeared Neal D. Hartsell, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same of his own free will for the purposes and consideration therein expressed.



[SEAL]

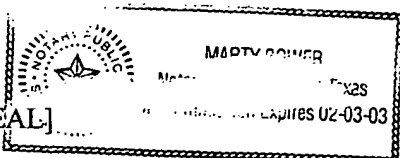
Marty Bower
Notary or Consular Officer

(Signature): Gregory J. Jackson
Gregory J. Jackson

Date: 9/5/01

State of Texas)
County of Travis)

BEFORE ME, the undersigned authority, on this 5 day of September, 2001, personally appeared Gregory J. Jackson, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same of his own free will for the purposes and consideration therein expressed.



[SEAL]

Marty Bower
Notary or Consular Officer

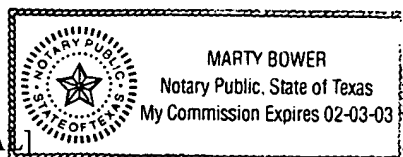
(Signature): Chaoxin C. Qiu
Chaoxin C. Qiu

Date: 9/5/2001

State of Texas)

County of Travis)

BEFORE ME, the undersigned authority, on this 5 day of September, 2001, personally appeared Chaoxin C. Qiu, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same of his own free will for the purposes and consideration therein expressed.



Marty Bower
Notary or Consular Officer

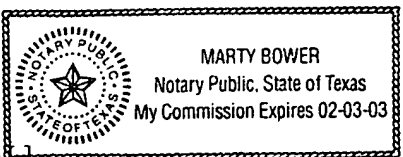
(Signature): Roger K. Richter
Roger K. Richter

Date: 9/5/01

State of Texas)

County of Travis)

BEFORE ME, the undersigned authority, on this 5 day of September, 2001, personally appeared Roger K. Richter, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same of his own free will for the purposes and consideration therein expressed.



Marty Bower
Notary or Consular Officer